IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :34431 of 1998

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Dated: 4TH December, 2007.

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Between:

The Depot Manager, APSRTC Bus Depot, Zaheerabad, Medak District.

..... PETITIONER

AND

G.Mallesham, S/o Yellaiah, Ramakkapet, Dubbaka (Mandal), Medak District and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :34431 of 1998

Oral Order:

The writ petition is instituted by the Depot Manager of the Andhra Pradesh State Road Transport Corporation calling in question the judgment and order rendered by the Labour Court-II, Hyderabad in I.D. No. 100 of 1995 raised by the 1st respondent – workman.

It is not in dispute that the 1st respondent has been engaged as a conductor on daily wage basis on 17.6.1991 with the State owned APSRTC and while he was conducting a bus belonging to Zaheerabad Depot, it was subjected to check on 21.10.1993. The checking officials have found that there are 22 passengers in the bus, while the 1st respondent-workman issued tickets to only 21 of them by collecting the fare correctly, but, however, he has not issued a ticket to one of the female passengers who boarded the bus at Stage No.4, thereby he has violated the norm circulated by the APSRTC, of permitting the bus to go on for the onward journey after the tickets are issued, known as "issue and start" norm. According to the learned Standing Counsel, the bus was subjected to check between stages 4 and 5 whereas in the sworn affidavit of the Law Officer, it is asserted that the check was conducted at Stage No.4. If the check of the bus was actually conducted at Stage No.4, no part of the conduct of the 1st respondent workman can ever be foul. Even assuming that the Law Officer, who has sworn to the affidavit is very careless, still, even assuming that the bus has been subjected to a check between the

stages 4 and 5, and if the checking officials have found that only one passenger who boarded the bus at stage No.4, the ticket was not issued, even then, his conduct may not amount to a misconduct, as, it is an admitted position that the 1st respondent – workman has not collected any fare from her at all. It is, therefore, a case of not collecting the fare and consequently not issuing the ticket. There was no element of misappropriation of the monies of the Corporation by the 1st respondent – workman. The spontaneous explanation offered by the 1st respondent – workman that since he had failed to notice that particular passenger boarding the bus at stage No.4, he has not issued the ticket appears to be quite plausible, as unfortunately the passenger also has not solicited the ticket by tendering the fare for her journey. At best, the allegation that could be leveled against the 1st respondent – workman would be that he is not very diligent while performing his duties. Lack of deligence, at all times, does not amount to negligence, for the allegation of misconduct to stick to and that the action of not issuing a ticket in favour of the passenger in question would at best be a mistake but not a wanton or willful act of negligence on his part. Therefore, the Tribunal which tried the industrial dispute has rightly arrived at the conclusion that that it is not a fit case for imposing the harsh punishment of removal on 9.8.1994 on the 1st respondent – workman. But, however, with a view to

balance the interests of the corporation *vis a vis* the workman, it had gone to the extent of denying backwages and the benefit of continuity of service in his favour.

Sri Padmanabha Rao, learned counsel deputizing for the learned Standing Counsel of the Corporation submits that the 1st respondent – workman has since been reinstated into service and he is now also regularized as a Conductor in service of the corporation. There is no material on record to demonstrate that the finding or the conclusion recorded by the Tribunal to be so perverse and unreasonable to warrant any interference under the *certiorari* jurisdiction of this Court.

Therefore, the writ petition is dismissed, but however, without costs.

Nooty Ramamohana Rao, J

Knk

4th December 2007.